

Exhibit # 10

TEWKSBURY Board of Health  
Minutes  
August 15, 2013

TOWN CLERK  
RECEIVED  
TEWKSBURY, MASS.  
13 OCT 11 PM 3:50

**Call of Meeting To Order**

**MOTION** - Mr. Barry made a motion to call the meeting to order at 7:12 PM. The motion was seconded by Ms. Brothers and unanimously voted 4-0.

The meeting was held at the Tewksbury Town Hall. Present at the meeting were, Vice Chairman Charles Roux, Christine Kinnon, Kathleen Brothers, Ray Barry and Health Director Lou-Ann Clement. Chairman Phillip French was not in attendance

**Public Hearings**

**Permit and Variance for the Tewksbury Board of Health Regulations for Keeping Animals Located at 170 Whittemore Street, Tewksbury – Mr. and Mrs. James Goggins Property Owners**

**MOTION** - Mr. Barry made a motion to open the public hearing for 170 Whittemore Street. The motion was seconded by Ms. Brothers and unanimously voted 4-0.

Mr. Roux read the public hearing notice into the record.

James Goggins, Kevin Goggins and Kathleen Goggins appeared for the variance and permit for animals at 170 Whittemore Street.

Ms. Clement distributed to the Board and applicant the Animal Inspectors report from August 12, 2013.

Mr. Kevin Goggins stated that he will be the primary care taker of the animals. They currently have two goats and five chickens as pets. The chickens are also used for eggs for personal consumption. The goats are kept in a shed type shelter with an open area surrounded by a 6' fence. The chickens live in a coop with access to the outside during the day.

Mr. Roux asked how long have the animals been there. Mr. Goggins stated that they had three goats for about eight years but one just died. The chickens have only been there about a year. The goats are a mother and son and do not have horns. The son has been fixed.

Ms. Brothers stated that in the report, the chickens are roaming free all the time. Ms. Goggins replied they are not free all the time. They are let out to eat deer ticks. They started off as a school project for their daughter. Ms. Brothers asked if there would be any more and asked if they are used for breeding. Ms. Goggins replied no on both questions and they do not have a rooster. Ms. Brothers asked if the goats are milked. Ms. Goggins replied no, the male is neutered. Ms. Brothers asked how the manure is handled. Mr. Goggins stated that it is spread around the yard and used in the garden and his brother will give it to some friends. Ms. Brothers asked if the feed is kept in a container. Ms. Goggins replied yes, the feed for both the chickens and goats are kept in a separate shed in Rubbermaid containers to keep rodents out.

Ms. Clement stated that she was on the property today and she was greeted by the chickens. The regulations do not allow the animals to roam the property without fences. Ms. Goggins stated that in the last two months they have stayed on their property. Ms. Clement asked how often and how long are the chickens allowed to roam free. Ms. Goggins stated that they roam about two hours twice a day. Ms. Clement stated that she noticed on the plan submitted that there were two measurements missing on the plan. The first was the housing for the goats and chickens to the rear lot line and how far from the abutters. Ms. Goggins stated that the house is backwards on the lot and there is an easement to access Whittemore Woods. There is way more than the 30' required. Ms. Goggins added that there is about 100' from the abutters to the chicken coop.

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David Barletta of 156 Whittemore Street – Mr. Barletta asked what the variance request is for. Ms. Clement stated that the regulations require that the setback from the animal housing to the side and rear lot lines only be 30' and they meet that requirement however, the regulations also say that they need to be 200' from the abutting dwellings and they only have 100'. Mr. Barletta stated that he doesn't have a problem with the setbacks, he is only opposed to the chickens and goats coming onto his property.

Ms. Kinnon stated that if this is approved, there should be a stipulation that the chickens and goats must be enclosed. Ms. Goggins stated that the goats are usually kept in a pen but in the spring they got out. When they first got the chickens, they wandered into Mr. Barletta's yard but they haven't in the last few months.

Mr. Barletta stated that there have been problems with the goats for years. There have been times he could get out of his house because the goats were on his deck. Ms. Goggins stated that happened one time in 2008. Mr. Barletta stated that the day he called the Board of Health the goats were on his property so he went to the Goggins property to tell them but no one answered the door.

**MOTION** - Ms. Brothers made a motion to approve the variance for 170 Whittemore Street with the condition that the goats and chickens must be restrained on their property by a fence or other means as recommended by the Animal Inspector. The motion was seconded by Ms. Kinnon and unanimously voted 4-0.

**MOTION** - Ms. Kinnon made a motion to approve the animal permit for two goats and five chickens with the same condition as the variance, that the goats and chickens must be restrained on their property by a fence or other means as recommended by the Animal Inspector. The motion was seconded by Mr. Barry and unanimously voted 4-0.

**MOTION** - Ms. Kinnon made a motion to close the public hearing. The motion was seconded by Ms. Brothers and unanimously voted 4-0.

**Variance of the "Tewksbury Board of Health Regulations for the Subsurface Disposal of Sewerage: Section 5.4 System Components Subsection B, External Grease Tanks Located at 2297 Main Street, Tewksbury, MA – Applicant South Ny 14 Hastings Street, Lowell, MA**

**MOTION** - Ms. Brothers made a motion to open the public hearing for 2297 Main Street. The motion was seconded by Mr. Barry and unanimously voted 4-0.

Mr. Roux read the public hearing notice into the record.

Attorney William Gramer, South Ny, Sophea So, and Mayheay Ny appeared for the variance request.

Ms. Clement stated that the applicant is proposing to open a frozen yogurt shop and are requesting a variance so they do not have to install an exterior grease trap.

Attorney Gramer stated that the location is in the strip mall with Bob's Barber Shop. They hope to open a frozen yogurt business in the left end unit. The building has no grease traps since the units have been used as office and retail. This will be the first food establishment. They are proposing a self-serve frozen yogurt shop with six machines with one to two flavors in each machine and a service area for toppings. They are proposing three tables with seating for six. The only food prep would be to cut the fresh fruit for toppings. Attorney Gramer presented an updated plan.

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Mr. Roux asked if there is enough parking for twelve seats. Attorney Gramer stated that they are only proposing six seats and they have added additional parking in the rear. The front lot has been restriped and the handicap spot has been updated. They will speak to the landlord and ask that all employees parking will be out back. Mr. Roux asked if this location is connected to sewer. Attorney Gramer replied yes. They are requesting a waiver for the 5,000 gallon external grease trap. They are proposing a 100-lb internal grease trap. Attorney Gramer presented the spec sheet. Mr. Roux stated that with the new regulations coming out, they will require an internal and external grease trap. The 5,000 gallon external grease trap will no longer be required. Mr. Roux stated that even though it's frozen yogurt, milk fat produces a big problem in the sewer system that is why an external grease trap is recommended. Attorney Gramer stated that the yogurt comes in powder and liquid forms and then it is mixed with water. It is a fat free product. Mr. Ny stated that it is less fat than ice cream. Ms. Clement stated that there are various types of frozen yogurt, fat free and/or low fat so both could be used.

Ms. Kinnon stated that when the new grease tank regulations are adopted, each food establishment will have five years and then it will be mandatory to install a 1,500 gallons external grease tank. If the variance is approved tonight, they will still need to install an external grease trap within five years. Attorney Gramer agreed to that stipulation. Ms. Kinnon stated that an internal grease trap can get very smelly with the yogurt. Ms. Clement agreed and added that the grease trap in a yogurt shop should be cleaned more than a regular restaurant because the milk product sours easily. It should be cleaned at least once a week. Ms. Kinnon stated that if there are any problems, we may require that an external grease trap be installed immediately regardless of the grace period with the new regulations. Attorney Gramer stated that his clients understand that and understand the new regulations. Attorney Gramer added that they only have a three year lease.

**MOTION** - Ms. Kinnon made a motion to grant the variance from Section 5.4 for 2297 Main Street with a condition that if there are any problems with the internal grease trap or discharge into the sewer, they will be required to install a 1,500 gallon external grease trap immediately. The applicant fully understands that when the new grease trap regulations are enacted they will have five years to install a 1,500 gallon external grease trap. The applicant further agrees that if the menu changes or new products are introduced they must notify the Board immediately. The motion was seconded by Ms. Brothers and unanimously voted 4-0.

**MOTION** - Ms. Kinnon made a motion to close the public hearing. The motion was seconded by Ms. Brothers and unanimously voted 4-0.

**Old Business**

**Status of Proposed Grease Trap Regulations**

Ms. Clement presented copies of the draft regulations and letter. These were sent to Town Counsel on August 13, 2013. Once Town Counsel reviews and submits any changes, the Board would review and can accept the changes as final version if completed and then Board would need to adopt it.

**Status of Proposed Dumpster Regulations**

Ms. Clement stated that she is still working on these regulations.

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**Board Member Reports**

**Tewksbury CARES**

Ms. Kinnon stated that she attended the quarterly Substance Use and Prevention Task Force on August 6<sup>th</sup>. This was a very informative meeting and she was very disturbed to learn about the heroin epidemic. Ms. Clement stated that she also attended. There will be a pilot program for student education. This will start in September and she thinks that Tewksbury was selected because of the hard work done by Officer Welch.

**Other Business**

There is no other business

**Announcements**

**Unwanted Medication Disposal**

Ms. Clement stated that there will be an unwanted medication disposal day on August 28, 2013 at the Lowell Health Department from 3:00 to 7:00 PM. They will be accepting sharps too. They must be in a puncture proof container and the medication should have no identification. Ms. Clement stated that there is also a kiosk in the Tewksbury Police Station and the Fire Stations will take sharps for a nominal fee.

Ms. Kinnon asked about liquid medication. Ms. Clement stated that right now they can add it kitty litter or coffee grinds in a container and throw it away.

**West Nile Virus**

Ms. Clement stated that Mosquito Control sprayed on Monday and Andover is spraying tonight in the same area where the positive mosquito was found.

Ms. Kinnon asked why they are not spraying the athletic fields. Ms. Clement stated that they have in the past but she will check on it. Ms. Clement reminded every to remove standing water, using bug spray and cover up when possible.

**MOTION** - Ms. Brothers made a motion to close the meeting and adjourn at 8:16 PM. The motion was seconded by Mr. Barry and unanimously voted 4-0.

Approved: \_\_\_\_\_

Raymond Barry, Clerk

**TEWKSBURY BOARD OF HEALTH MEETING**

**List of Documents for August 15, 2013**

**Documents can be located at the Board of Health's Office**

TOWN CLERK  
BOARD OF REGISTRARS  
TEWKSBURY, MA  
13 OCT 11 PM 3:50

**Meeting Called To Order:**

**Public Hearings:**

TBOH Regulations for the Subsurface Disposal of Sewerage - Variance package 2297 Main Street Tewksbury

TBOH Regulations for the Keeping of Animals - Permit and Varaince package for 170 Whittemore Street

**Old Business:**

**Board Members Reports**

**Other Business**

**Announcements**

**Adjourn**

COMMONWEALTH OF MASSACHUSETTS  
TEWKSBURY BOARD OF HEALTH  
Tewksbury, Massachusetts  
NOTICE OF DECISION  
Amended

RE: **Public Hearing for Tewksbury Board of Health Regulations for Keeping Animals**  
**Section 5.0 Permit**  
**Located: 170 Whittemore Street, Tewksbury MA**

The Tewksbury Board of Health (TBOH) at a noticed public hearing voted on August 15, 2013 to approve the requested permit to keep animals on the property known as 170 Whittemore Street, Tewksbury, Massachusetts. Additionally, the TBOH approved the requested variance for the requirement of the 200' setback for abutting dwelling.

**I. History of the Case**

On May 6, 2013, the Tewksbury Board of Health office received a complaint regarding the keeping of chickens and goats being allowed to roam loose.

On May 15, 2013 an investigation was performed to determine that this location was housing chickens and goats without the necessary permits from the Tewksbury Board of Health.

On July 15, 2013, the Tewksbury Board of Health Office received an application from Mr. James Goggins and Mrs. Kathleen Goggins to keep animals and a variance for abutting dwellings setback of 200' under Tewksbury Board of Health Regulations for Keeping Animals located on the premises at 170 Whittemore Street, Tewksbury, Massachusetts.

On August 15, 2013, a public hearing was held, and TBOH granted Mr. James Goggins and Mrs. Kathleen Goggins a permit to keep up to 2 goats and 6 chickens on the property located at 170 Whittemore Street with the following conditions: (1) animals are to be restrained on owners' property; and (2) owners are recommended to work with the Animal Inspector on type of restraint. Furthermore, the TBOH approved the variance for abutting dwellings setback of 200' to 100'.

**II. Summary of Hearing Procedure**

The TBOH opened the public hearing in the Auditorium of the Town Hall on Thursday, August 15, 2013 at 7:00 P.M.

At this public hearing, the TBOH *unanimously* voted to grant a permit to keep animals (6 chickens and 2 goats) and a setback variance.

A quorum was met throughout the process and thereafter, the TBOH by *unanimous vote of 4-0* approved the permit with the following conditions: (1) animals are to be restrained on owners' property; and (2) owners are recommended to work with the Animal Inspector on type of restraint.

The TBOH closed the public hearing.


**III. Finding of Facts**

On August 15, 2013, the Tewksbury Board of Health found that the approval of this permit, with its conditions, does not create an imminent Public Health Hazard.

**IV. Decision**

The TBOH, therefore, grants a permit with the following conditions: (1) animals are to be restrained on owners' property known as 170 Whittemore Street, Tewksbury Massachusetts; and (2) owners are recommended to work with the Animal Inspector on type of restraint.

TEWKSBURY BOARD OF HEALTH

By:  Phillip French, Chairman

Tewksbury Clerk  
2013 SEP 11 AM 3:10

COMMONWEALTH OF MASSACHUSETTS  
TEWKSBURY BOARD OF HEALTH  
Tewksbury, Massachusetts

NOTICE OF DECISION

RE: **Public Hearing for Tewksbury Board of Health Regulations for Keeping Animals**  
**Section 5.0 Permit**  
**Located: 170 Whittemore Street, Tewksbury MA**

The Tewksbury Board of Health (TBOH) at a noticed public hearing voted on August 15, 2013 to approve the requested permit to keep animals on the property known as 170 Whittemore Street, Tewksbury, Massachusetts.

**I. History of the Case**

On May 6, 2013, the Tewksbury Board of Health office received a complaint regarding the keeping of chickens and goats being allowed to roam loose.

On May 15, 2013 an investigation was performed to determine that this location was housing chickens and goats without the necessary permits from the Tewksbury Board of Health.

On July 15, 2013, the Tewksbury Board of Health Office received an application from Mr. James Goggins and Mrs. Kathleen Goggins to keep animals under Tewksbury Board of Health Regulations for Keeping Animals located on the premises at 170 Whittemore Street, Tewksbury, Massachusetts.

On August 15, 2013, a public hearing was held, and TBOH granted Mr. James Goggins and Mrs. Kathleen Goggins a permit to keep up to 2 goats and 6 chickens on the property located at 170 Whittemore Street with the following conditions: (1) animals are to be restrained on owners' property; and (2) owners are recommended to work with the Animal Inspector on type of restraint.

**II. Summary of Hearing Procedure**

The TBOH opened the public hearing in the Auditorium of the Town Hall on Thursday, August 15, 2013 at 7:00 P.M.

At this public hearing, the TBOH *unanimously* voted to grant a permit to keep animals (6 chickens and 2 goats).

A quorum was met throughout the process and thereafter, the TBOH by *unanimous vote of 4-0* approved the permit with the following conditions: (1) animals are to be restrained on owners' property; and (2) owners are recommended to work with the Animal Inspector on type of restraint.

The TBOH closed the public hearing.

**III. Finding of Facts**

On August 15, 2013, the Tewksbury Board of Health found that the approval of this permit, with its conditions, does not create an imminent Public Health Hazard.

**IV. Decision**

The TBOH, therefore, grants a permit with the following conditions: (1) animals are to be restrained on owners' property known as 170 Whittemore Street, Tewksbury Massachusetts; and (2) owners are recommended to work with the Animal Inspector on type of restraint.

TEWKSBURY BOARD OF HEALTH

By:  Philip French, Chairman

Town Clerk  
2013 SEP 10 PM 2:53

Town Clerk  
2013 SEP 10 PM 2:54

COMMONWEALTH OF MASSACHUSETTS  
TEWKSBURY BOARD OF HEALTH  
Tewksbury, Massachusetts

NOTICE OF DECISION

RE: **Public Hearing for Tewksbury Board of Health Regulations for the Subsurface Disposal of Sewerage**

Located: 2297 Main Street, Tewksbury MA

The Tewksbury Board of Health (TBOH) at noticed public hearing voted on August 15, 2013 to approve the requested Variance for the "Tewksbury Board of Health Regulations for Subsurface Disposal of Sewage Section 5.4 System Components subsection 5.4 paragraph B" located at 2297 Main Street, Tewksbury Massachusetts.

I. History of the Case

On July 9, 2013, the Tewksbury Health Department received a request for a variance from "Tewksbury Board of Health Regulations for Subsurface Disposal of Sewage Section 5.4 System Components subsection 5.4 paragraph B" for the premises located at 2297 Main Street, Tewksbury, Massachusetts.

II. Summary of Hearing Procedure

At the request of South Ny d/b/a Green Frozen Yogurt, the TBOH of the Town of Tewksbury opened the public variance hearing in the Auditorium of the Town Hall on Thursday August 15, 2013.

On August 15, 2013, the TBOH *unanimously* voted to grant a variance waiver from the required five thousand (5,000) gallon external grease trap to no grease trap.

A quorum was met throughout the variance hearing and thereafter, where the TBOH *unanimously voted 4-0* to approve the variance with the following conditions: (1) this variance is not grandfathered under the proposed regulations; and (2) if a problem arises, an external grease trap must be obtained immediately.

The TBOH closed the public hearing as set forth below.

III. Finding of Facts

On August 15, 2013, the Tewksbury Board of Health approved the variance, with the above conditions and the granting of this variance does not create an imminent Public Health Hazard.

IV. Decision

The TBOH is, therefore, of the opinion that the granting of this variance does not create imminent Public Health Hazard and variance is approved.

TEWKSBURY BOARD OF HEALTH

  
By: Phillip French, Chairman